

General Information Letter: The Department of Revenue cannot issue a private letter ruling determining that an individual is a nonresident.

April 18, 2000

Dear:

This is in response to your letter dated March 13, 2000 in which you request a Letter Ruling. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you stated:

This is a response to your letter of December 7, 1999, of which I am enclosing a copy. I wish to obtain a binding Private Letter Ruling regarding my Illinois tax situation. As you requested, I am submitting the information set out in items 1 through 8 of Section 1200.110(b)

- 1) I was a resident of Illinois from my birth in 1934 until 1979 (except 2 years in the army).
I was transferred on my job to New York in 1979.
I resided there until I retired in late 1989.
I moved to Florida in late 1989 and resided there all of 1990 except for 2 weeks in Chicago.
Starting in 1991 I have been spending winters in Florida (from 4 to 7 months) and summers in Chicago (also from 4 to 7 months, probably averaging 6)
I lived in rented apartments in Florida until 1993, when I bought my present residence. I lived in rented apartments in Chicago (usually 6 - month leases) until I bought a condo in September, 1999. I expect to live there about 7 months a year, the rest in Florida or traveling. Since I've owned the Florida apartment I've been getting a Florida homeowner's exemption that eliminates the first \$25,000 of assessed valuation if you meet the residence requirements. I was told by Chicago's Cook County property tax department that I would be eligible for either the Florida or Illinois exemption but not both. Since the Florida version seems simpler and is already in force, I plan to keep it and not get any Illinois exemption.
I am a registered voter in Florida (copy enclosed) since 1991. I am not registered in Illinois and don't plan to be.
I have not been employed anywhere since 1989.

I have a valid drivers license in Florida (copy enclosed) although I don't own a car. I don't have an Illinois drivers license and don't plan to get one or own a car in Illinois.

Florida has no state income tax but does have an "intangible tax" (on assets). I have been paying this tax since 1991 (2000 copy enclosed).

I don't have any bank accounts in Illinois (or Florida). All my banking activity is combined in a checking, savings and brokerage account with xxxxxxxxxxxxxx which I established in New York when I resided there.

I am the only interested party. I am not married and never have been.

I don't know how to analyze "the relation of the material facts to the issues."

- 2) I have enclosed copies of all relevant documents, as noted above.
- 3) The tax period at issue presumably starts in 1999 and will affect every year from now on.
- 4) Your department has not ruled on this or a similar issue for me or a predecessor. I have not previously submitted the same or a similar issue but withdrawn it before a letter ruling was issued.
- 5) I have no statement from authorities supporting my views. But at sometime in the early 1990's, before I bought the Chicago condo, I described to someone in the State of Illinois tax office in Chicago my situation and was told I wasn't liable for state taxes. I asked if I could get that in writing and was told it wasn't necessary. Even though it was what I wanted to hear I was a little skeptical so I talked to someone else there a year or so later but got the same response.
- 6) There are no authorities' statements contrary to my views.
- 7) I have no trade secrets.
- 8) All the above information is as complete and accurate as I can make it.

DISCUSSION

Your letter to Ms. Scott was forwarded to the undersigned for reply. It appears that there has been a mix-up as the Department cannot issue private letter rulings on the issue of residency. Because the issue of residency is so fact-intensive and heavily dependent on the taxpayer's intent the issue can only be dealt with in the context of an audit wherein the auditor would have full access to all of the facts and circumstances. The language in the former letter concerning how to apply for a private letter ruling should have been deleted from the response. We are sorry for the inconvenience but we cannot be more specific than Ms. Scott was in her letter.

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As mentioned above, this is merely a general information letter and not a statement of policy and is not binding upon the Department. I hope that this has been helpful to you. The Department maintains a website, which can be accessed at www.revenue.state.il.us. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Jackson E. Donley
Senior Counsel - Income Tax